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9 **UNITED STATES BANKRUPTCY COURT**

10 **DISTRICT OF NEVADA**

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In Re	Case No. BK-09-12938-BAM
12 ANTHONY R. FRISA	Chapter 13
13 JANE M. FRISA	TRUSTEE: Rick A. Yarnall
	Hearing Date: November 3, 2009
	Debtors Hearing Time: 1:30 p.m.

14 **QUALIFIED OPPOSITION TO MOTION FOR RELIEF FROM STAY**

15 Come Now Debtor, Anthony R. Frisa and Jane M. Frisa (hereinafter "Debtors"),
 16 by and through their legal counsel, David M. Crosby, of the law firm Crosby &
 17 Associates who respectfully oppose the **Wells Fargo Bank, N.A. Motion for Relief**
 18 **From Automatic Stay** filed with this Court on October 05, 2009 by Wells Fargo Bank,
 19 N.A., (hereinafter "Movant"), alleged secured creditor, for the purpose of requesting this
 20 Court to condition any such relief from stay upon the requirement that Movant reinitiate
 21 subject foreclosure by recording a Notice of Default pursuant to NRS 107.080 for the
 22 reason that movant has not heretofore filed a Notice fo default relative to this property.

23 I.

24 **STATEMENT OF FACT**

25 1. Debtors filed a Chapter 13 case on March 4, 2009, to restructure personal
 26 debt including arrearage on their home.

27 2. Debtors made substantial monthly payments for payment of the loan(s)

1 encumbering their home from the time of purchase until the time that their income
2 became reduced.

3 3. The property subject to this action is located at 4120 Park Street, Las
4 Vegas, Nevada 89110 (hereinafter "Real Property") and is presently appraised at
5 \$45,135.00. The alleged loan indebtedness is in excess of \$217,412.49

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7 **II.**

8 **POINTS AND AUTHORITIES**

9 N.R.S. Chapter 107 together with Foreclosure Mediation Rules adopted by the
10 Nevada Supreme Court provide that no mediation may be initiated until and unless a
11 Notice of Default is filed subsequent to July 1, 2009.

12 **III.**

13 **CONCLUSION**

14 THEREFORE, based upon the facts and the points and authorities set forth
15 herein, and any arguments heard at the hearing on this matter, Debtor respectfully
16 request that this Court condition any order granting motion for relief from the automatic
17 stay upon requirement that the continued foreclosure be reinitiated with the recording of
18 a new Notice of Default.

19 DATED this 27th day of October, 2009.

21 **CROSBY & ASSOCIATES**

23 By: /s/ David M. Crosby
24 DAVID M. CROSBY, ESQ.
25 Nevada Bar No. 003499
26 711 S. 8th St.
27 Las Vegas, Nevada 89101
28 Attorneys for Debtors

CERTIFICATE OF MAILING

I, the undersigned, an employee of the Crosby & Associates, hereby certify that on the 27th day of October, 2009, I deposited in the United States Mail, first class mail, postage pre-paid, a true and correct copy of the **Qualified Opposition to Motion for Relief from Stay** to all parties listed below:

Trustee
Rick A. Yarnall
701 S. Bridger, #820
Las Vegas, NV 89101

Anthony R. Frisa
Jane M. Frisa
4120 Park Street
Las Vegas, NV 89110

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Phoenix, AZ 85016

/s/ Amelina Delgado
An employee of
CROSBY & ASSOCIATES